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In propria personam

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF NEW YORK

DARO WEILBURG,)	Case No <u>5:24-cv-1189</u> (PNH/MJK)
vs)	
CARLA FITZGERALD , Clerk of the Oneida City Court,)	Request for Jury Trial
BRENDAN RIGBY , Officer of the Court,)	
GEORGE D. ANNAS , Psychiatrist Contractor For the County of Madison, New York)	
)	
)	
Defendants)	
)	

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(18 U.S.C. § 242, Deprivation of Civil Rights under color of law)
(18 U.S.C. § 505 Conspiracy to commit fraud upon the court)
(42 U.S.C. § 1983, violation of Civil Rights)
(42 U.S.C. § 1985 conspiracy to violate civil rights w/ state official)

I. Parties to this Complaint

A. The Plaintiff

Daro Weilburg
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Cicero, NY 13039
Onondaga County
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(480) 751-9958

B. The Defendants

Defendant No. 1

Carla Fitzgerald
Clerk of the Oneida City Court
109 North Main Street
Oneida, NY 13421
Madison County
oneidacitycourt@nycourts.gov
(315) 266-4740

Defendant no. 2

Brendan Rigby
Attorney at Law
499 S. Warren St. Fl 4
Syracuse, NY 13202-2628
Onondaga County
law@brendanrigby.com
(315) 320-6282

Defendant no. 3

George D. Annas, MD.
555 South State Street
Syracuse, N.Y. 13202
Onondaga County
(607) 624-7132

II. JURISDICTION

This Court has jurisdiction pursuant to 18 U.S.C. § 242; 18 U.S.C. § 505; 42 U.S.C. § 1983; 42 U.S.C. § 1985. Defendant Carla Fitzgerald is a local officer of the Oneida City Court as clerk of that court. Defendant Brendan Rigby is an officer of the court appointed to represent indigent defendants. Defendant George D. Annas is a medical doctor contracted by Madison County Mental Health Clinic as a psychiatrist to render opinions of mental health conditions of indigent defendants when so ordered by the court. (CPL § 730)

The Plaintiff is entitled to bring this action before this honorable court based on deprivations of his 1st Amendment rights of free speech and freedom of the press. These Defendants violated the rights of the Plaintiff regarding a forged court order pursuant to CPL § 730. And a falsely manufactured evaluation letter to the Oneida City Court

III. STATEMENT OF CLAIM

A. On or About April 25, 2023, Plaintiff alleges that Defendants Carla Fitzgerald and Brendan Rigby engaged in a conspiracy to commit a fraud upon the court and the Plaintiff: Brendan Rigby telephoned Carla Fitzgerald and told her what to put into the forged

order of the court. Carla Fitzgerald then backdated the forged court order to March 1, 2023, then she stamped the Judge's name to the order and then she emailed the forged court order on April 25, 2023, to Elizabeth Spaulding of the Madison County Mental Health clinic so the Madison County Mental Health Clinics two Contracted Psychiatrists would mentally evaluate Plaintiff pursuant to CPL § 730.30. Judge Michael Misiaszek of the Oneida City Court made no such order on March 1, 2023.

B. On or about July 17, 2023, Brendan Rigby and Dr. George D. Annas conspired to produce an opinion to the Court that Plaintiff was incapacitated and suffered from a mental disease they published that fraud upon the Court on August 22, 2023:

Plaintiff met with Dr. Tarun Kumar and Dr. George D. Annas. Dr. Kumar gave approval that Plaintiff's wife could attend. Plaintiff was adamant that he did not want Brendan Rigby to attend the evaluation. Dr. George D. Annas showed up a few minutes later. Dr. Annas in a dictatorial fashion provided that because Mr. Rigby could not attend the evaluation neither could Plaintiff's wife. Plaintiff informed the two Doctors that he would not continue without his wife, he did not believe the evaluation would be fair with two against one. Dr. Annas then cancelled the evaluation.

Plaintiff recorded the entire event and placed it on his YouTube Channel.

The internet link is found here: <https://youtu.be/9PKQObCSB9k>

Thereafter on or about August 22, 2023, Brendan Rigby and George D. Annas, MD engaged in a conspiracy to manufacture a mental health evaluation on the Plaintiff without Dr. George D. Annas actually examining the Plaintiff. Plaintiff met with Dr. George Annas and Dr. Tumar Kunar pursuant to CPL § 730.30 for less than 10 minutes at the Madison County Mental Health Clinic on or about July 17, 2023.

Within the August 22, 2023, letter from Dr. George Annas to the Oneida City Court, Annas admits talking with Brendan Rigby to “*...discuss his [Rigby's] opinions on the potential areas that Mr. Weilburg potentially lacked the capacity to proceed. Mr. Rigby provided us with helpful information on the multitude ways where Mr. Weilburg has been hostile, illogical, and has sometimes appeared to go out of his way to impede his own case.*” Plaintiff could not imagine any doctor getting a prognosis of a patient from an attorney.

If, as Dr. Annas claimed in his report that he read the evidence that Plaintiff allegedly “threw’ at Dr. Tarun Kumar. Dr. Annas would have ascertained that Rigby repeatedly provided inaccurate legal advice to the Plaintiff.; threatened Plaintiff with asking the Court for a mental

examination because Plaintiff would not accept a guilty plea; And, Rigby's claims that Plaintiff was mentally incapacitated because he was exercising his 1st Amendment rights of freedom of the press. The Plaintiff did call George D. Annas a 'punk' which is a term often used for an individual who acts like a Smart Alec. Rigby also refused to file appropriate motions and he failed to interview witnesses after he stated his investigator would.

Within the forged Court Order Rigby had Carla Fitzgerald insert that Plaintiff was "*Disruptive, Confused or bizarre behavior, Uncooperative, Appears not to understand the charges or court process. Other: Defendant refuses to speak with Defense counsel and insists on email contact only after which he uses those emails to post to his YouTube channel labeled Daro Weilburg. Counsel recommends review of this channel to be part of his examination. Defense counsel also requests to be present at the examination appointment.*" (Emphasis added) *

The words "Counsel Recommends Review" substantiates that Rigby provided the content of the order to Fitzgerald the Clerk. Between the two of them, they conjured up the April 25, 2023, court order then backdated that

- The Court held in the matter of the *United States v. Throckmorton*, 98 U.S. 61, 25 L.Ed. 93 (1878), that: "While an attorney should represent his client with singular loyalty that loyalty obviously does not demand that he act dishonestly or fraudulently; on the contrary his loyalty to the court, as an officer thereof, demands integrity and honest dealing with the court. And when he departs from that standard in the conduct of a case he perpetrates a fraud upon the court."

order to March 1, 2023, finally, Carla Fitzgerald emailed the fraud upon the court to Elizabeth Spaulding. The forged order of the court could not be followed. The forged Court document provided that the Madison County Mental Health Coordinator must file his report with the Court by April 12, 2023. It was already April 25, 2023, when Carla Fitzgerald emailed the forged order to Elizabeth Spaulding.

To the chagrin of Rigby, Plaintiff was publishing his emails containing Rigby's inaccurate claims on the law. For instance Rigby did not know what the word '*ex parte*' meant in legal jargon. Rigby claimed in an email that an '*ex parte*' ruling could result without an '*ex parte*' hearing. Rigby informed the Plaintiff there was no way to depose the victim in a criminal matter in New York. The victim was 91 years old and could have been examined and cross examined under New York State Law because of his age. Rigby was ill-informed on the law, Mr. Castellane the alleged victim did pass away, before Plaintiff could examine him in a legal setting.

Dr. George D. Annas while conspiring with Rigby published innuendo, insinuation and slander of the Plaintiff by claiming Plaintiff suffers from a mental disease. Dr. Annas could not possibly diagnose Plaintiff with a mental disease Dr. Annas did not examine the Plaintiff.

On August 23, 2023, the Oneida City Court dismissed the criminal case against Plaintiff due to the alleged victim, Richard Castellane passing away on June 18, 2023. The misdeeds of these three Defendants were already part of the record published to the Court. Ironically, Dr. Tarun Kumar did not file any opinion with the Court. Dr. Kumar seems to be the more professional and intelligent of the two doctors.

Basically, Plaintiff contends that all three of these defendants acting in the capacity of public servants, Carla Fitzgerald Clerk of the Oneida City Court, Brendan Rigby an Officer of the Court appointed by the County of Madison to defend Plaintiff in a criminal matter and paid for by Madison County funds, and Dr. George D. Annas contracted by the County and receiving Madison County funds for services rendered, weaponized their professions and practices to maliciously attack the person of the Plaintiff.

IV. INJURIES

Plaintiff suffers from mental anguish due to the unprofessional criminal acts of these three Madison County employed or contracted by Madison County when each of them attacked him and tried to prevent him from exercising his civil rights of free speech, freedom to expose their attacks on his YouTube Channel, and, access to the Court to present his

grievances. Carla Fitzgerald and Brendan Rigby violated Plaintiff's right to access the Court. Dr. George D. Annas violated Plaintiff's right to be secure in the professionalism of a learned medical Doctor who only after a proper examination would render any diagnosis. Dr. George D. Annas falsely accused Plaintiff of suffering from a mental disease because Plaintiff called him a punk. Not because he actually examined the Plaintiff. Plaintiff suffers from mental anguish over the August 22, 2023, fraud on the Court published by Dr. George D. Annas. Plaintiff has been slandered by Dr. George D. Annas.

V. **RELIEF**

Plaintiff seeks compensatory damages in an amount to be determined by the Court. Plaintiff seeks punitive damages in the amount of \$1,000,000.00 from each defendant for their malicious and unprofessional acts toward the Plaintiff. Plaintiff seeks court costs and fees to be determined as just, proper and equitable under the circumstances by this Court.

RESPECTFULLY SUBMITTED this 25th day of September, 2023

By Daro Weilburg
Daro Weilburg, *in proper*

DARO WEILBURG
Printed Name of Plaintiff

V. CERTIFICATE AND CLOSING

I, Daro Weilburg, *in propria personam*, certify under Federal Rules of Civil Procedure 11, by signing below that to the best of my knowledge, information, evidence and belief that this complaint: 1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; 2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; 3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and 4) the complaint complies with the requirements of Rule 11.

I further certify that I will provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's office may result in the dismissal of my case.

RESPECTFULLY SUBMITTED the 25th day of September 2023

By Daro Weilburg
Daro Weilburg, *in proper*

DARO WEILBURG
Printed Name of Plaintiff